

OSCAR TURNER, JR.

NUMBER 627, 885-C

VERSUS

1ST JUDICIAL DISTRICT COURT

WAL-MART, INC. AND ITS UNKNOWN
INSURER

CADDO PARISH, LOUISIANA

PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, comes and appears OSCAR TURNER, JR., a person of the full age of majority, domiciled in Stonewall, DeSoto Parish, Louisiana, who respectfully represents the following:

1.

Made defendants, herein, as follows:

- 1) WAL-MART, INC., its employees and representatives, a foreign corporation license to and doing business in the State of Louisiana, whose Agent for Service of Process is CT CORPORATION SYSTEM, located at 3867 Plaza Tower Drive, Baton Rouge, LA 70816;
- 2) WAL-MART, INC. UNKNOWN INSURER

2.

Petitioner, OSCAR TURNER, JR., avers that on January 6, 2020, he visited the defendant's store, facility number 450, located at 9550 Mansfield Road, Shreveport, Caddo Parish, Louisiana, to purchase automobile tires. Petitioner further avers that one of defendant's employees, after having been unable to remove tires from Petitioner's vehicle, came and got Petitioner from the customer waiting area to come into defendant's Employee Only work area, to remove the tires.

3.

Petitioner avers that after entering the defendant's Employee Only work area, he was given a lug wrench by defendant's employee and asked to attempt to remove the tire. Petitioner further avers that after placing the lug wrench onto the lug bolt, the lug wrench slipped off the bolt, causing him to fall to the floor on his right side, injuring his right side, right shoulder, right knee, right ankle, right hand, and right hip for which has been and continues to be treated for.

4.

Petitioner avers that his accident that occurred on January 6, 2020 was due to the sole and exclusive fault of defendant and its employees, by negligently asking and inviting him to attempt to change and remove the tires from his vehicle. Petitioner further avers that the accident

occurred during the course and scope of defendant's employees' employment, with the defendant WAL-MART, INC., which makes WAL-MART, INC. vicariously liable for the negligent acts of its employees.

5.

Petitioner further avers that defendant, WAL-MART, INC., was either self-insured and or had in force and effect a liability insurance policy, by an *unknown insurer*, that insured it against the type of damages sued upon and therefore has a direct cause of action against the *unknown insurer*.

6.

Petitioner further avers that defendant, its employees and its *unknown insurer* are strictly and negligently liable for all injuries and damages sustained.

7.

Petitioner further avers that defendant, WAL-MART, INC. and its employees, were negligent in the following non-exclusive manners, to wit:

- a) Failing to change Petitioner's tires without his assistance;
- b) Violating its own store's and work area's policy;
- c) Asking and instructing Petitioner to change his own tires;
- d) Inviting Petitioner into its Employee Only work area;
- e) Escorting Petitioner into its Employee Only work are;
- f) Providing Petitioner with a lug wrench to attempt to remove his tires; and
- g) Allowing Petitioner to attempt to remove his own tires, resulting in Petitioner's injuries.

8.

Petitioner avers that he suffered and sustained the following general and special damages, which he is entitled to receive an amount calculated to adequately compensate him for the injuries and damages he sustained;

- A. Past, present, and future physical pain and suffering;
- B. Past, present, and future medical expenses;
- C. Past, present, and future fear, fright, and mental anguish and distress;
- D. Loss of enjoyment of life; and
- E. Loss of wages.

9.

Petitioner avers that it will be necessary to use medical witnesses and/or experts at the trial of his case, and their fees together, with any expense for taking of their depositions, should be fixed and taxed as court costs.

10.

Petitioner avers that an amicable demand has been made without avail.

WHEREFORE, PETITIONER PRAYS, that after due proceedings, there be judgment, herein, in favor of petitioner, **OSCAR TURNER, JR.**, and against defendants, **WAL-MART, INC., AND ITS UNKNOWN INSURER**, for all general and special damages sued for with legal interest thereon, from date of the suit and judicial demand, and for all costs, including expert witness fees and the cost for taking their depositions.

FURTHER PRAYS that all medical and expert witness fees be taxed as court costs.

FURTHER PRAYS for all other general and equitable relief.

RESPECTFULLY SUBMITTED,

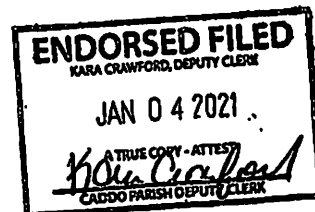
DAVIS LAW OFFICE, LLC
A Professional Law Office
4050 Linwood Avenue
Shreveport, LA 71108
(318) 621-9400
(318) 636-7759 (facsimile)

By: 

S. P. Davis, Sr., LBR # 4741
Kharmen Davis, Esq., LBR # 33085
Attorneys for **OSCAR TURNER, JR.**

SERVICE INFORMATION
PLEASE SERVE:

1. **WAL-MART INC.**
thru its Agent for Service of Process
CT CORPORATION SYSTEM
3867 Plaza Tower Drive
Baton Rouge, LA 70816
2. **UNKNOWN INSURER**



OSCAR TURNER, JR.

NUMBER _____

VERSUS

1ST JUDICIAL DISTRICT COURT

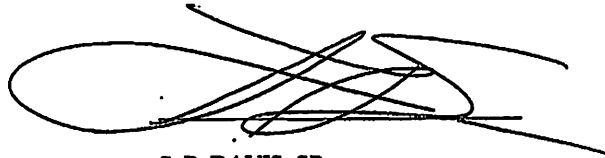
**WAL-MART, INC. AND ITS UNKNOWN
INSURER**

CADDO PARISH, LOUISIANA

CERTIFICATE

I certify that I have reviewed with my clients the matter contained herein, that inquiry has been made by me or at my direction, and to the best of my knowledge, information, and belief the information presented to the court is true and correct.

3/5 December 2020

A handwritten signature in black ink, appearing to read 'S. P. DAVIS, SR.', with a large, stylized loop at the beginning.

S. P. DAVIS, SR.

DAVIS LAW OFFICE, LLC.
A Professional Law Office
4050 Linwood Avenue
Shreveport, Louisiana 71108
(318) 621-9400
(318) 636-7759 (facsimile)

OSCAR TURNER, JR.

NUMBER _____

VERSUS

1ST JUDICIAL DISTRICT COURT

**WAL-MART, INC. AND ITS UNKNOWN
INSURER**

CADDO PARISH, LOUISIANA

VERIFICATION

STATE OF LOUISIANA


PARISH OF CADDO

BEFORE ME, the undersigned authority, came and appeared, **OSCAR TURNER, JR.**,
to me personally known, and after being duly sworn, stated:

That he is the petitioner in the above lawsuit and that he has read the averments thereof
and to the best of his knowledge and belief they are all correct.


OSCAR TURNER, JR.

SWORN TO AND SUBSCRIBED in my office in Shreveport, Caddo Parish, Louisiana,
this 31st day of December 2020.


NOTARY PUBLIC

OSCAR TURNER, JR.

NUMBER _____

VERSUS

1ST JUDICIAL DISTRICT COURT

WAL-MART, INC. AND ITS UNKNOWN
INSURER

CADDO PARISH, LOUISIANA

ORDER

THE FOREGOING CONSIDERED:

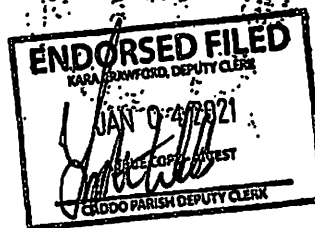
IT IS HEREBY ORDERED, that defendants, WAL-MART, INC. AND ITS UNKNOWN INSURER be served with a copy of this Petition and be cited to appear and answer the same.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that defendants produce and file into the record herein within thirty (30) days from date of service of this Petition, the original and/or certified copy of the liability insurance policy insuring the defendant, WAL-MART, INC., and to answer all attached interrogatories and request for production of documents within thirty (30) days from service of this Petition.

THUS DONE AND SIGNED this 5 day of January 2021, Shreveport,
Caddo Parish, Louisiana.

JUDGE MICHAEL PITMAN

DISTRICT COURT JUDGE



lonzetta

CPCC.CV.2365617

Citation

OSCAR TURNER JR
VS
WALMART INC

NO. 627885- C ✓
STATE OF LOUISIANA
PARISH OF CADDO
FIRST JUDICIAL DISTRICT COURT

39.34

THE STATE OF LOUISIANA, TO: WALMART INC
THRU C T CORPORATION SYSTEM, AGENT
3867 PLAZA TOWER DR
BATON ROUGE, LA
70816

YOU HAVE BEEN SUED.

Attached to this Citation is a certified copy of the Petition.* The petition tells you what you are being sued for.

You must EITHER do what the petition asks, OR, within FIFTEEN (15) days after you have received these documents, you must file an answer or other legal pleadings in the Office of the Clerk of this Court at the Caddo Parish Court House, 501 Texas Street, Room 103, Shreveport, Louisiana.

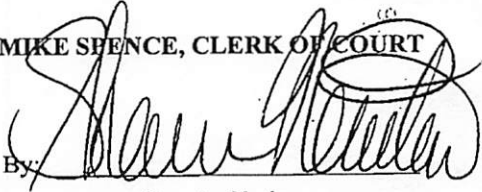
If you do not do what the petition asks, or if you do not file an answer or legal pleading within FIFTEEN (15) days, a judgment may be entered against you without further notice.

This Citation was issued by the Clerk of Court for Caddo Parish, on this date January 6, 2021.

*Also attached are the following:

____ REQUEST FOR ADMISSIONS OF FACTS
XX INTERROGATORIES
XX REQUEST FOR PRODUCTION OF DOCUMENTS

MIKE SPENCE, CLERK OF COURT

By: 
Deputy Clerk

S P DAVIS SR

Attorney

SERVICE INFORMATION:

Date _____

Personal _____ Domiciliary _____ to _____

Unserved _____ because _____

Remarks _____

I made service on the named party through the
CT Corporation

JAN 15 2021

by tendering a copy of this document to
Deputy Sheriff Ashley Minvielle

E. CUMMINS

Deputy Sheriff, Parish of East Baton Rouge, Louisiana



FILED
SHERIFF RETURN

JAN 28 2021

MIKE SPENCE

CLERK OF COURT

lonzetta

CPCC.CV.2365617

Citation

OSCAR TURNER JR
VS
WALMART INC

NO. 627885- C
STATE OF LOUISIANA
PARISH OF CADDO
FIRST JUDICIAL DISTRICT COURT

THE STATE OF LOUISIANA, TO: WALMART INC
THRU C T CORPORATION SYSTEM, AGENT
3867 PLAZA TOWER DR
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____ REQUEST FOR ADMISSIONS OF FACTS
XX INTERROGATORIES
XX REQUEST FOR PRODUCTION OF DOCUMENTS

MIKE SPENCE, CLERK OF COURT

By: 

Deputy Clerk

S P DAVIS SR

Attorney

A TRUE COPY -- ATTEST


Deputy Clerk

These documents mean you have been sued. Legal assistance is advisable, and you should contact a lawyer immediately. If you cannot find a lawyer, please go to www.shreveportbar.com and click on the Lawyer Referral Service link, or go to the Shreveport Bar Center on the third Monday of each month from 5:30 - 7:30 for a free seminar. If eligible, you may be entitled to legal assistance at no cost to you through Shreveport Bar Legal Aid. Please call 318-222-7186 for more information.

If you are a person with a disability, please contact the Clerk of Court's office for information regarding accommodation and assistance.

SERVICE COPY



**Service of Process
Transmittal**

01/15/2021

CT Log Number 538894321

TO: Kim Lundy Service Of Process
Walmart Inc.
702 SW 8TH ST
BENTONVILLE, AR 72716-6209

RE: **Process Served in Louisiana**

FOR: WALMART INC. (Domestic State: DE)

ENCLOSED ARE COPIES OF LEGAL PROCESS RECEIVED BY THE STATUTORY AGENT OF THE ABOVE COMPANY AS FOLLOWS:

TITLE OF ACTION: Turner Oscar, Jr., Pltff. vs. Wal-Mart, Inc., etc., Dft.
Name discrepancy noted.

DOCUMENT(S) SERVED: Citation, Petition, Certificate, Verification, Order, Interrogatories

COURT/AGENCY: 1st Judicial District Court, Parish of Caddo, LA
Case # 627885C

NATURE OF ACTION: Personal Injury - Slip/Trip and Fall - 01/06/2020 - 9550 Mansfield Road, Shreveport,
Caddo Parish, Louisiana

ON WHOM PROCESS WAS SERVED: C T Corporation System, Baton Rouge, LA

DATE AND HOUR OF SERVICE: By Process Server on 01/15/2021 at 09:10

JURISDICTION SERVED : Louisiana

APPEARANCE OR ANSWER DUE: Within 15 days after receipt (Document(s) may contain additional answer dates)

ATTORNEY(S) / SENDER(S): S. P. Davis, Sr.
Davis Law Office, LLC
4050 Linwood Avenue
Shreveport, LA 71108
318-621-9400

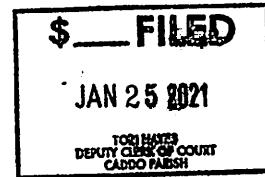
ACTION ITEMS: CT has retained the current log, Retain Date: 01/15/2021, Expected Purge Date:
01/20/2021

Image SOP

Email Notification, Kim Lundy Service Of Process ctlawsuits@walmartlegal.com

REGISTERED AGENT ADDRESS: C T Corporation System
3867 Plaza Tower Dr.
Baton Rouge, LA 70816
877-564-7529
MajorAccountTeam2@wolterskluwer.com

The information contained in this Transmittal is provided by CT for quick reference only. It does not constitute a legal opinion, and should not otherwise be relied on, as to the nature of action, the amount of damages, the answer date, or any other information contained in the included documents. The recipient(s) of this form is responsible for reviewing and interpreting the included documents and taking appropriate action, including consulting with its legal and other advisors as necessary. CT disclaims all liability for the information contained in this form, including for any omissions or inaccuracies that may be contained therein.



OSCAR TURNER, JR.

NUMBER: 627,885-C

VERSUS

1ST JUDICIAL DISTRICT COURT

WAL-MART, INC., ET AL.

CADDO PARISH, LOUISIANA

ANSWER TO PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, come defendants, WAL-MART, INC. and WAL-MART LOUISIANA, LLC ("defendants"), who in response to the allegations of the Petition for Damages filed by plaintiff, OSCAR TURNER, JR. ("plaintiff"), deny each and every allegation contained therein, except as specifically admitted hereinafter. And now, responding to the separately numbered allegations of plaintiff's petition for damages, defendants respond as follows:

ANSWER TO PETITION FOR DAMAGES

1.

Defendants admit that Wal-Mart, Inc. is named as a defendant. In further answering, defendants aver that the entity which owns and operates the store where the incident allegedly occurred is Wal-Mart Louisiana, LLC.

2.

Defendants deny the allegations of paragraph 2.

3.

Defendants deny the allegations of paragraph 3.

4.

Defendants deny the allegations of paragraph 4.

5.

Defendants deny the allegations of paragraph 5.

6.

Defendants deny the allegations of paragraph 6.

7.

Defendants deny the allegations of paragraph 7 and each of its subparts.

8.

Defendants deny the allegations of paragraph 8 and each of its subparts.

9.

Defendants deny the allegations of paragraph 9.

10.

Defendants deny the allegations of paragraph 10.

IN FURTHER ANSWERING, defendants affirmatively plead as follows:

11.

Defendants affirmatively plead the fault of plaintiff as the sole cause of the damages complained of by him. Plaintiff failed to keep a proper lookout and to observe his surroundings, and to exercise reasonable care for the safety and protection of his own person.

12.

In the alternative, defendants affirmatively plead the comparative fault of plaintiff or third persons. To the extent any fault is allocated to plaintiff or third persons, any damages awarded against defendants, the right to which is denied, should be reduced in proportion to the fault of plaintiff or third persons.

13.

Defendants affirmatively plead the fault of third persons for whom defendants are not responsible and whose fault may have caused or contributed to the damages plaintiff claims to have suffered.

14.

Defendants affirmatively plead plaintiff's failure to mitigate his damages.

15.

Defendants allege, without admitting any liability whatsoever, that any acts or omissions of defendants were superseded by the acts or omissions of others, including those of plaintiff or third persons, all of which were independent, intervening and superseding causes of all alleged injury, damage or loss.

16.

Subject to further investigation and discovery, plaintiff's claims may have prescribed under applicable statutes of limitation.

17.

Defendants show that if any of the medical expenses claimed by plaintiff in this case have been paid pursuant to Medicare and/or Medicaid, then pursuant to 42 U.S.C. § 1395(v)(b)(B)(ii)(b)(a) and La. R.S. 46:153(E), plaintiff have no cause of action for recovery of any such medicals paid by Medicare and/or Medicaid as the acceptance of payment by or on behalf of plaintiff constitutes a complete assignment of rights to said entities for recovery of those benefits.

18.

Defendants show that they are entitled to a credit for any medical expenses discounted or mark down by any provider pursuant to an agreement with plaintiff or plaintiff's counsel and with regard to any mark down or discount resulting from health insurance payments or pursuant to a health insurance contract under the Balanced Billing Act, La. R.S. 22:1874.

19.

Defendants are entitled to a reduction in the amount for which they may be held liable in judgment in accordance with the degree or percentage of fault and/or negligence attributable to plaintiff, or to any and all other persons and legal entities, including those

which may be or are released by settlement, bankruptcy, or otherwise, all in accordance with the laws of indemnity, comparative negligence, subrogation, and/or contribution.

20.

Defendants show that they are entitled to a credit for any medical expenses discounted or marked down by any healthcare provider who paid such expenses on behalf of or to plaintiff pursuant to the Louisiana Workers' Compensation Act.

21.

Defendants reserve the right to assert additional affirmative defenses based upon further investigation and discovery.

22.

Defendants are entitled to and prays for a trial by jury as to all issues triable by a jury.

WHEREFORE, defendants, WAL-MART, INC. and WAL-MART LOUISIANA, LLC, respectfully pray the above and foregoing answer be deemed good and sufficient; and that following due proceedings had, there be judgment herein in favor of defendants and against plaintiff, rejecting and dismissing the claims and demands of the plaintiff at plaintiff's cost.

DEFENDANTS FURTHER PRAY for all general and equitable relief.

DEFENDANTS FURTHER PRAY for a jury trial as to all issues triable by a jury.

BLANCHARD, WALKER, O'QUIN & ROBERTS
(A Professional Law Corporation)

By: 

Scott R. Wolf, La. Bar #28277

700 Regions Bank Tower
Post Office Drawer 1126
Shreveport, Louisiana 71163-1126
Telephone: (318) 221-6858
Telecopier: (318) 227-2967

ATTORNEYS FOR DEFENDANTS,
WAL-MART, INC. and
WAL-MART LOUISIANA, LLC

CERTIFICATE OF SERVICE

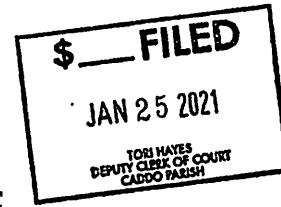
I HEREBY CERTIFY that a copy of the above and foregoing Answer to Petition for Damages has this date been served upon the following parties by placing same in the United States Mail, postage paid.

Mr. S.P. Davis, Sr.
DAVIS LAW OFFICE, LLC
4050 Linwood Avenue
Shreveport, LA 71108
Attorneys for Plaintiff

Shreveport, Louisiana, this 28th day of January, 2021.



OF COUNSEL



OSCAR TURNER, JR.

NUMBER: 627,885-C

VERSUS

1ST JUDICIAL DISTRICT COURT

WAL-MART, INC., ET AL.

CADDOPARISH, LOUISIANA

REQUEST FOR NOTICE OF TRIAL AND JUDGMENT

NOW INTO COURT, through undersigned counsel, come the defendants, WAL-MART, INC. and WAL-MART LOUISIANA, LLC ("defendants"), who request that they be given at least ten (10) days' written notice in advance in accordance with Article 1571 and 1572 of the Louisiana Code of Civil Procedure, of the date that this case is to be fixed for hearing or trial, and pursuant to Articles 1913 and 1914 of the Louisiana Code of Civil Procedure, of all final and interlocutory judgments.

BLANCHARD, WALKER, O'QUIN & ROBERTS
(A Professional Law Corporation)

By: _____

Scott R. Wolf, La. Bar #28277

700 Regions Bank Tower
Post Office Drawer 1126
Shreveport, Louisiana 71163-1126
Telephone: (318) 221-6858
Telecopier: (318) 227-2967

ATTORNEYS FOR DEFENDANTS,
WAL-MART, INC. and
WAL-MART LOUISIANA, LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing Request for Notice of Trial and Judgment has this date been served upon the following parties by placing same in the United States Mail, postage paid.

Mr. S.P. Davis, Sr.
DAVIS LAW OFFICE, LLC
4050 Linwood Avenue
Shreveport, LA 71108
Attorneys for Plaintiff

Shreveport, Louisiana, this 28th day of January, 2021.



OF COUNSEL